

Food is defined as any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including foods such as condiments, spices, seasonings, vitamins, bottled water and ice. See 86 Ill. Adm. Code 130.310. (This is a GIL).

September 24, 1999

Dear Ms. Xxxxx:

This letter is in response to your letter dated September 14, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I have a new small business in which I retail pet food and supplements. The pet food is advertised:

'The only producer of naturally and/or organically grown food and supplements, under USDA and FDA restriction and licensing of foods for human consumption, that are available for animals.'

Since it is licensed under 'food for human consumption,' do I tax at 2% or 8.75%? It is sold only for pets. The supplements are sold primarily for pets but not exclusively. What should they be taxed at?

If I tax at 2%, do I need to have a health inspection or auditor inspection?

I purchase the foods fresh-frozen from California.

Please advise ASAP.

The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. 35 ILCS 120/2 (1996 State Bar Edition). The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. 35 ILCS 105/3 (1996 State Bar Edition).

Please find enclosed a copy of 86 Ill. Adm. Code 130.310 regarding tax on food, medicine and medical appliances under the Retailers' Occupation Tax Act. As you can see, the regulation provides that food which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food

which has been prepared for immediate consumption), and prescription and non-prescription medicines, drugs, and various medical appliances are taxed at the State rate of 1% plus applicable local taxes. Food is defined as any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including foods such as condiments, spices, seasonings, vitamins, bottled water and ice. See Section 130.310(b)(1).

Food and supplements intended primarily for consumption by pets are subject to the high rate of tax.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.